

HOUSE BILL No. 1733

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-10-22; IC 4-12-1-8.5; IC 6-1.1-20.9-2; IC 6-1.1-21.

Synopsis: Property tax replacement and homestead credits. Requires the budget agency to prepare a revenue forecast as part of the budget preparation process and update it at least annually. Limits the total amount of property tax replacement credits (except for credits granted for certain welfare and school levies) and homestead credits that may be granted in a year to 8.5% of the total recurring unrestricted state general fund and property tax replacement fund revenue forecast for the year by the budget agency. Makes a similar limitation on the amount that may be distributed to local taxing units to replace revenue lost from the granting of property tax credits. Eliminates all homestead credits for that part of the tax liability imposed on a homestead that is attributable to an assessed valuation of more than \$250,000. Adjusts the \$250,000 cap each time that an annual adjustment in the assessment or general reassessment occurs.

Effective: July 1, 2005.

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January 19, 2005, read first time and referred to Committee on Ways and Means.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1733

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-10-22 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 22. Limitations on Spending from the Property Tax Replacement Fund

Sec. 1. This chapter applies to the following controlled property tax credits:

(1) **Homestead credit granted under IC 6-1.1-20.9-2.**

(2) **Property tax replacement credits granted under IC 6-1.1-21-5 for the part of the taxpayer's property tax replacement credit amount (as defined in IC 6-1.1-21-2) that remains after deducting the taxpayer's tax liability (as determined under IC 6-1.1-21-5) for the following:**

(A) **Sixty percent (60%) of the taxes imposed by a school corporation for its general fund.**

(B) **County medical assistance to wards fund (IC 12-13-8-2).**



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(C) County hospital care for the indigent fund
(IC 12-16-14-1).

(D) Children with special health care needs county fund
(IC 16-35-3-1).

Sec. 2. As used in this chapter, "controlled property tax credits" refers to credits described in section 1 of this chapter.

Sec. 3. As used in this chapter, "forecast" refers to a forecast prepared under IC 4-12-1-8.5.

Sec. 4. As used in this chapter, "recurring unrestricted general revenues" refers to the amount determined under section 6 of this chapter.

Sec. 5. The total amount of controlled property tax credits that may be granted for ad valorem property taxes first due and payable in a year may not exceed an amount equal to the lesser of the following:

(1) Eight and five-tenths percent (8.5%) of the recurring unrestricted general revenues forecast for the year in the latest version of the forecast available before the credit percentage is determined under section 7 of this chapter.

(2) The amount appropriated and available to replace revenue lost to local taxing units from the granting of controlled property tax credits in the year.

However, if the property tax replacement fund board established under IC 6-1.1-21-10 determines to adjust distributions under section 8 or 9 of this chapter, the property tax replacement fund board established under IC 6-1.1-21-10 may make a matching adjustment in the controlled property tax credits allowed under this section.

Sec. 6. For purposes of this chapter, recurring unrestricted general revenue consists of all income that when received is required by law to be deposited in the state general fund or the property tax replacement fund, except the following:

(1) Money received by the state:

(A) on condition that it be expended for a specific use; or
(B) as loans, grants, and other distributions from the federal government or an instrumentality of the federal government;

except money received for disproportionate share payments to an entity that qualifies as a disproportionate share hospital or provider under IC 12-15-16.

(2) The amount that is transferred from the property tax replacement fund to the build Indiana fund under

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1 IC 4-33-13-5(d).

2 Sec. 7. The property tax replacement board shall determine the
3 credit percentage adjustments to the credits granted by
4 IC 6-1.1-20.9-2 and IC 6-1.1-21-5 that are needed to comply with
5 section 5 of this chapter. In making the adjustment, the board shall
6 adjust each credit in proportion to the relative amount of property
7 tax relief that would be granted by each credit if no adjustment
8 were made under this chapter. The department of local
9 government finance shall notify each county auditor of the
10 adjusted credit percentages that apply in the county that the
11 county auditor serves in sufficient time for the county auditor to
12 prepare the auditor's abstract for the year under IC 6-1.1-22-5.

13 Sec. 8. The department of state revenue shall adjust the
14 distributions to a county treasurer under IC 6-1.1-21-4,
15 IC 6-1.1-21-9, IC 6-1.1-21-10, and IC 6-1.1-21-10.5 to replace
16 revenue lost from the granting of controlled property tax credits
17 in a year so that the amount of the distribution related to
18 controlled property tax credits does not exceed the lesser of the
19 following:

20 (1) The amount of controlled property tax credits granted
21 under IC 6-1.1-20.9-2 and IC 6-1.1-21-5 for the year after the
22 adjustments made under this chapter.

23 (2) The amount appropriated and available to replace revenue
24 lost to local taxing units from the granting of controlled
25 property tax credits in the year.

26 However, if sufficient money is available to fully fund an
27 appropriation in the first state fiscal year of a budget period, the
28 property tax replacement fund board established under
29 IC 6-1.1-21-10 may delay all of the reductions required under this
30 section until the second state fiscal year of the budget period.

31 Sec. 9. For purposes of section 8 of this chapter, an
32 appropriation made in the first state fiscal year of a budget period
33 (as defined in IC 4-12-1-2) to replace revenue lost from the
34 granting of controlled property tax credits continues to be
35 available in the second state fiscal year of the budget period to
36 replace revenue lost from the granting of controlled property tax
37 credits. If actual revenues received by the state exceed the forecast
38 and sufficient money is available to fully fund an appropriation to
39 replace revenue lost to local taxing units from the granting of
40 controlled property tax credits in the second state fiscal year of a
41 budget period, including any appropriation carried over under this
42 section, the property tax replacement board fund established under

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IC 6-1.1-21-10 may adjust the distributions to a county treasurer under IC 6-1.1-21-4, IC 6-1.1-21-9, IC 6-1.1-21-10, and IC 6-1.1-21-10.5 to replace revenue lost from the granting of controlled property tax credits payable from the second state fiscal year by the amount of the excess. The amount of the adjustment may not exceed the amount of controlled property tax credits granted under section 5 of this chapter.

Sec. 10. (a) If an appropriation made to replace revenue lost from the granting of controlled property tax credits is combined with an appropriation to replace revenue lost from the granting of property tax credits other than controlled property tax credits, the maximum amount available to replace revenue lost from the granting of controlled property tax credits is equal to the appropriation multiplied by a fraction.

(b) If the appropriation period is a state fiscal year, the numerator of the fraction under subsection (a) is the total amount of adjusted controlled property tax credits granted under IC 6-1.1-20.9-2 and IC 6-1.1-21-5.

(c) The denominator of the fraction under subsection (a) is the total of all property tax credits granted under IC 6-1.1-20.9-2 and IC 6-1.1-21-5.

Sec. 11. If after February 15 in a year, a later updated forecast indicates that the amount of recurring unrestricted general revenue that the state will receive in a year is less than the amount forecast in the last forecast made before February 15, the amount distributed under IC 6-1.1-21-4, IC 6-1.1-21-9, IC 6-1.1-21-10, and IC 6-1.1-21-10.5 to replace revenue lost from granting controlled property tax credits to each county shall be reduced in proportion to each county's total county tax levy (as defined in IC 6-1.1-21-2) for the year. The total amount of the reductions must equal the amount by which the undated forecast indicates unrestricted general revenue collections will be reduced.

SECTION 2. IC 4-12-1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.5. (a) The statement required under section 9 of this chapter in the second part of a budget report (proposed anticipated income) must be based on a forecast that presents, to the best of the budget director's knowledge and belief, the expected income that will be available to meet the appropriations in:

- (1) each state fiscal year in the budget period for which the budget report is prepared; and
- (2) each calendar year containing any part of the budget

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period.

(b) The forecast prepared under this section shall be updated at least annually. During odd-numbered years, the forecast prepared under subsection (a) shall be updated before the last regular business day immediately preceding April 11 in the year.

(c) A forecast prepared under this section shall be expressed in specific monetary amounts as a single point estimate of forecasted income. The forecast must contain the information necessary to compute the expenditure limitations in IC 4-10-22. Due professional care must be used in preparing the forecast. The underlying assumptions used must provide a reasonably objective basis for the forecast and be appropriate for the circumstances. Significant underlying assumptions must be disclosed in the forecast report.

(d) The budget director shall submit a forecast prepared under this section, including each updated version of the forecast, in an electronic format under IC 5-14-6 to the executive director of the legislative services agency not later than two (2) regular business days after a forecast is completed.

SECTION 3. IC 6-1.1-20.9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

(b) **Subject to subsection (h)**, the amount of the credit to which the individual is entitled equals the product of:

(1) the percentage prescribed in subsection (d), **as adjusted under IC 4-10-22**; multiplied by

(2) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(A) attributable to the homestead during the particular calendar year; and

(B) determined after the application of the property tax replacement credit under IC 6-1.1-21.

(c) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, all deductions from assessed valuation which the individual claims under IC 6-1.1-12 or IC 6-1.1-12.1 for property on which the individual's

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homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.

(d) The percentage of the credit referred to in subsection (b)(1) is as follows: **the percentage determined under the following table, as reduced as required under IC 4-10-22:**

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 and thereafter	20%

However, the property tax replacement fund board established under IC 6-1.1-21-10, in its sole discretion, may increase the percentage of the credit provided in the schedule for any year, if the board feels that the property tax replacement fund contains enough money for the resulting increased distribution. If the board increases the percentage of the credit provided in the schedule for any year, the percentage of the credit for the immediately following year is the percentage provided in the schedule for that particular year, unless as provided in this subsection the board in its discretion increases the percentage of the credit provided in the schedule for that particular year. However, the percentage credit allowed in a particular county for a particular year shall be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

(e) Before October 1 of each year, the assessor shall furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed under this chapter.

(f) The county auditor shall apply the credit equally to each installment of taxes that the individual pays for the property.

(g) Notwithstanding the provisions of this chapter, a taxpayer other than an individual is entitled to the credit provided by this chapter if:

- (1) an individual uses the residence as the individual's principal place of residence;
 - (2) the residence is located in Indiana;
 - (3) the individual has a beneficial interest in the taxpayer;
 - (4) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence;
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(5) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(h) This subsection applies only to a homestead that has an assessed value of greater than two hundred fifty thousand dollars (\$250,000). The amount of the credit to which the individual is entitled under this section is the credit to which the individual would be entitled under subsection (b), as adjusted under IC 4-10-22:

(1) maintaining the same tax rates that apply under subsection (b); but

(2) recalculating:

(A) the property tax replacement credit under IC 6-1.1-21 that must be applied before the calculation of credit under this section; and

(B) the credit under this section;

only for that part of the tax liability that would be imposed if the assessed value of the homestead were two hundred fifty thousand dollars (\$250,000).

SECTION 4. IC 6-1.1-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The department, with the assistance of the auditor of state and the department of local government finance, shall determine an amount equal to the eligible property tax replacement amount, **reduced as required under IC 4-10-22**, which is the estimated property tax replacement.

(b) The department of local government finance shall certify to the department the amount of homestead credits provided under IC 6-1.1-20.9 which are allowed by the county for the particular calendar year.

(c) If there are one (1) or more taxing districts in the county that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter, the department of local government finance shall estimate an additional distribution for the county in the same report required under subsection (a). This additional distribution equals the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Estimate that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the estimated property tax replacement amount

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attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(d) The sum of the amounts determined under subsections (a) through (c), **reduced as required under IC 4-10-22**, is the particular county's estimated distribution for the calendar year.

SECTION 5. IC 6-1.1-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) **Subject to the adjustment under IC 4-10-22**, each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e) **and in the adjustment required under IC 4-10-22**, between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining

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one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. **The final determination of distribution is subject to the adjustment under IC 4-10-22.** The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (i), the department shall not distribute under subsection (b) and section 10 of this chapter the money attributable to the county's property reassessment fund if:

- (1) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;
- (2) by the deadline under IC 36-2-9-20, the county auditor has not

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transmitted data as required under that section; or

(3) the county assessor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a).

(f) Except as provided in subsection (i), if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by October 1 as described in this section bears to the total number of townships in the county.

(g) Money not distributed for the reasons stated in subsection (e)(1) and (e)(2) shall be distributed to the county when:

(1) the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1; and

(2) the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);

with respect to which the failure to send or forward resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; or

(B) a county assessor to forward copies of all approved exemption applications;

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1 as described in subsection (e); or
 2 (2) the failure of an official to transmit data as described in
 3 subsection (f);
 4 is justified by unusual circumstances.

5 SECTION 6. IC 6-1.1-21-5 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each year the
 7 taxpayers of each county shall receive a credit for property tax
 8 replacement in the amount of each taxpayer's property tax replacement
 9 credit amount for taxes which:

10 (1) under IC 6-1.1-22-9 are due and payable in May and
 11 November of that year; or

12 (2) under IC 6-1.1-22-9.5 are due in installments established by
 13 the department of local government finance for that year;

14 **reduced as required under IC 4-10-22.** The credit shall be applied to
 15 each installment of taxes. The dollar amount of the credit for each
 16 taxpayer shall be determined by the county auditor, based on data
 17 furnished by the department of local government finance.

18 (b) The tax liability of a taxpayer for the purpose of computing the
 19 credit for a particular year shall be based upon the taxpayer's tax
 20 liability as is evidenced by the tax duplicate for the taxes payable in
 21 that year, plus the amount by which the tax payable by the taxpayer had
 22 been reduced due to the application of county adjusted gross income
 23 tax revenues to the extent the county adjusted gross income tax
 24 revenues were included in the determination of the total county tax levy
 25 for that year, as provided in sections 2(g) and 3 of this chapter,
 26 adjusted, however, for any change in assessed valuation which may
 27 have been made pursuant to a post-abstract adjustment if the change is
 28 set forth on the tax statement or on a corrected tax statement stating the
 29 taxpayer's tax liability, as prepared by the county treasurer in
 30 accordance with IC 6-1.1-22-8(a). However, except when using the
 31 term under section 2(l)(1) of this chapter, the tax liability of a taxpayer
 32 does not include the amount of any property tax owed by the taxpayer
 33 that is attributable to that part of any property tax levy subtracted under
 34 section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F),
 35 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this
 36 chapter in computing the total county tax levy.

37 (c) The credit for taxes payable in a particular year with respect to
 38 mobile homes which are assessed under IC 6-1.1-7 is equivalent to the
 39 taxpayer's property tax replacement credit amount for the taxes payable
 40 with respect to the assessments plus the adjustments stated in this
 41 section.

42 (d) Each taxpayer in a taxing district that contains all or part of an

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1 economic development district that meets the requirements of section
 2 5.5 of this chapter is entitled to an additional credit for property tax
 3 replacement. This credit is equal to the product of:

- 4 (1) the STEP TWO quotient determined under section 4(a)(3) of
 5 this chapter for the taxing district; multiplied by
 6 (2) the taxpayer's taxes levied in the taxing district that are
 7 allocated to a special fund under IC 6-1.1-39-5.

8 **SECTION 7. [EFFECTIVE JULY 1, 2005] (a) IC 6-1.1-20.9-2,**
 9 **IC 6-1.1-21-3, IC 6-1.1-21-4, and IC 6-1.1-21-5, all as amended by**
 10 **this act, apply only to property taxes first due and payable after**
 11 **December 31, 2005.**

12 **(b) Notwithstanding IC 4-12-1-8.5, as added by this act, the**
 13 **budget agency shall comply in 2005 with IC 4-12-1-8.5(b) by**
 14 **updating the technical committee forecast issued by the budget**
 15 **agency in December 2004. As part of the update, the budget agency**
 16 **shall edit the forecast to provide the information necessary to**
 17 **compute the expenditure limitations in IC 4-10-22, as added by this**
 18 **act.**

19 **(c) Notwithstanding IC 4-10-22-3, as added by this act, for**
 20 **purposes of making determinations for 2006, the term forecast**
 21 **refers to the forecast described in subsection (b).**

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